



AMERICAN FEED INDUSTRY ASSOCIATION

April 29, 2008

The Honorable John Boehner
House Republican Leader
U.S. House of Representatives
H-204 Capitol Building
Washington, DC 20516

Dear Leader Boehner:

On behalf of the American Feed Industry Assn. (AFIA), I write to applaud Congress for its consideration of how best to protect U.S. workers from dust explosions and fires, but also to convey our concerns with H.R. 5522, the "Combustible Dust Explosion & Fire Prevention Act of 2008," to be considered on the House floor April 30.

AFIA is the national association representing the total U.S. feed industry. Our over 500 member companies manufacture over 70% of the commercial livestock, poultry and pet foods sold annually in the U.S. A major part of AFIA membership is companies providing processed ingredients to the feed industry, including vitamins, minerals, nutrients and other key nutritional components of modern feeds and pet foods, and our members manufacture over 90% of these ingredients.

AFIA strongly supports protecting all workers from workplace dangers, and to that end, AFIA was and is actively involved in the development and implementation of the Occupational Safety & Health Administration's (OSHA) standard on grain facilities (29 CFR 1910.272), a standard which applies to feed milling operations and which all parties acknowledge has worked well since its promulgation in 1988. AFIA is also a long-time member of the National Fire Prevention Assn. (NFPA), and is actively involved in ongoing consideration of NFPA's combustible dust standards, including those standards for prevention of fires and dust explosions in agricultural and food processing facilities (NFPA 61).

The key to the success of these workplace protection standards through the Clinton and Bush Administrations has been cooperation between the OSHA and regulated industry. Our concerns with HR 5522 center on the contemplated "one-size-fits-all" approach to regulation of combustible dust, as well as circumvention of the Administrative Procedures Act (APA) (notice-and-comment rulemaking) by congressional direction to OSHA to adopt NFPA standards. Certainly, NFPA standards must be considered in crafting enhancements to OSHA's workplace protections; however, other approaches – some specific to industry segments – warrant consideration as well.

Experience has taught us enshrining third-party standards in law inevitably leads to confused and sometimes arbitrary enforcement actions by agencies, and requires Congress to re-intervene in the agency's actions to modify statutory requirements based on evolving technology and industry practices. OSHA, through the remaining months of the Bush Administration and into the new Administration, must retain the flexibility to engage industry on how to best and most pragmatically enhance workplace protections.



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Arbitrary adoption of a single set of standards – no matter how well thought of they might be – also leads to higher compliance costs as some industries adjust operations to meet those standards. Given feed represents from 50-70% of the cost of producing meat, milk and eggs, any increase in manufacturing costs – in this case, the regulation of many critical feed ingredients – will increase the cost of feed to farmers, a cost inevitably transferred to the consumer at the grocery checkout. During these times of skyrocketing food prices, the cost-benefit of all regulatory approaches must be thoughtfully considered.

AFIA again applauds the House and shares its dedication to enhancing workplace safety and health. Please feel free to call on us to assist your deliberations in any way possible.

Sincerely,

A handwritten signature in black ink, reading 'Joel S. Newman', is written over a large, stylized 'J' that loops around the first part of the name.

Joel Newman
President & CEO